



Office of the Independent Counsel

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June 12, 2000

**BY TELECOPIER AND FIRST CLASS MAIL**

Warren L. Dennis, Esq.  
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**CONFIDENTIAL/  
DISCUSSES MATTERS  
UNDER SEAL**

Dear Mr. Dennis:

Thank you for your May 31, 2000 letter concerning matters related to your clients who are named persons in the Final Report of the Independent Counsel, In re: Anthony Marceca ("Report"). Your letter states that you provided it to this Office "primarily for the purpose of correcting severally materially inaccurate statements" in the portion of the Report relating to your clients.

As you are aware, on April 14, 2000, the Division for the Purpose of Appointing Independent Counsels of the U.S. Court of Appeals for the District of Columbia Circuit ("Special Division") issued an order authorizing your clients or you "to examine the portions of the Report in which [your clients are] mentioned . . . ." April 17, 2000 Letter from Mark J. Langer, Clerk. That letter also advised that your clients "ha[ve] a right to submit any comments or factual information for possible inclusion in an appendix to the Report."

The filing of comments and factual information is authorized under 28 U.S.C. § 594(h)(2), which provides that "the division of the court may make any portion of a final report . . . available to any individual named in such report for the purpose of receiving . . . any comments or factual information that such individual may submit." That same provision also authorizes that "[s]uch comments and factual information, in whole or in part, may, in the discretion of the division of the court, be included as an appendix to such final report."

While I appreciate your offer to allow this Office the opportunity to respond to your information, the Court's order and the statute do not contemplate the procedure that you suggest. Rather, individuals who are named in a final report filed by an independent counsel may address any comments or factual information to the court for inclusion in an appendix. Therefore, I